

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

TYREE A. POPE,

Plaintiff,

v.

Case No. 12-CV-331

NURSE TOMASZEWSKI,

Defendant.

DECISION AND ORDER

On July 31, 2014, plaintiff filed a motion to compel discovery. He seeks an order compelling defendant to produce documents requested on August 1, 2014. Defendant contends that the motion should be denied because at no time has plaintiff served any request on defendant.

Under Federal Rule of Civil Procedure 37, a party is permitted to file a motion to compel discovery where another party fails to respond to interrogatories or requests for production of documents. See Fed. R. Civ. P. 37(a)(3)(B)(iii) and (iv). The movant “must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.” Fed. R. Civ. P. 37(a)(1). Additionally, Civil Local Rule 37 requires the movant to “recite the date and time of the conference or conferences and the names of all parties participating in the conference or conferences.”

Here, it appears that plaintiff has not made an initial discovery request. Therefore, his motion to compel will be denied.

Finally, I note that on August 29, 2014, defendant filed a motion for summary judgment. Plaintiff's response to the motion was due by September 29, 2014. No response has been filed. I will grant plaintiff additional time until October 31, 2014, to respond to defendant's motion for summary judgment.¹

THEREFORE, IT IS ORDERED that plaintiff's motion to compel (Docket # 48) is **DENIED**.

IT IS FURTHER ORDERED that plaintiff's response to defendant's motion for summary judgment is due on or before **October 31, 2014**.

Dated at Milwaukee, Wisconsin, this 8th day of October, 2014.

s/ Lynn Adelman

LYNN ADELMAN
District Judge

¹ On August 28, 2014, plaintiff filed a dispositive motion and defendant responded to the motion on September 26, 2014.